

ORIGINAL

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9 CREDIT COLLECTION SERVICES, INC.

FILED

AUG 08 2012

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

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NP

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

12 MILO ZUCCHI and DARLISA
13 ZUCCHI,

14 Plaintiffs,

15 vs.

16 CREDIT COLLECTION SERVICES,
17 INC.,

18 Defendant.

CASE NO. C12-4162 SC
NOTICE OF REMOVAL

FILE BY FAX

19
20
21 PLEASE TAKE NOTICE that pursuant to 28 U.S.C. § 1446(a), Defendant
22 CREDIT COLLECTION SERVICES, INC. ("Defendant") hereby removes to this
23 Court the civil action described below, as it involves a federal question.

24 1. On February 9, 2012, Plaintiffs MILO ZUCCHI and DARLISA ZUCCHI
25 ("Plaintiffs") filed a civil action in the Superior Court of the State of California for the
26 County of Contra Costa entitled Milo Zucchi and Darlisa Zucchi v. Credit Collection
27 Services, Inc., Case No. MSL12-01038. A true and correct copy of Plaintiffs'
28 Complaint is attached hereto as Exhibit "A".

2. Plaintiff's Complaint was served by mail and acknowledgment of receipt under California Code of Civil Procedure § 415.30. Defendant signed the acknowledgment of receipt on July 9, 2012. A copy of the acknowledgment of receipt form is attached hereto as Exhibit "B".

3. This Notice of Removal is being filed with this Court within 30 days of the service of the Complaint, as required by 28 U.S.C. § 1446(b).

4. There are no other defendants named in Plaintiffs' Complaint.

5. This action involves a federal question in that it arises under the Fair Debt Collection Practices Act (15 U.S.C. § 1692, et seq.). It is therefore an action of which this Court has original jurisdiction under 28 U.S.C. § 1331, and may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. § 1441(a). In this regard, Plaintiffs state in the Complaint that "[t]his is an action for damages brought by an individual consumer for Defendant's violations of . . . the Fair Debt Collection Practices Act . . ." (Complaint ¶ 1), and Plaintiffs' second cause of action is for violation of said Act. This Court has supplemental jurisdiction over Plaintiffs' first cause of action pursuant to 28 U.S.C. § 1367.

6. Venue is proper in this district under 28 U.S.C. § 1441(a) because this district and division embrace the place where the removed action has been pending.

7. Plaintiffs' Complaint includes a demand for a jury trial. Defendant also demands a jury trial.

8. Defendant will promptly file a copy of this Notice of Removal with the clerk of the State Court where the action has been pending.

DATED: August 7, 2012

CARLSON & MESSER LLP

By s/David J. Kaminski
David J. Kaminski
Attorneys for Defendant
CREDIT COLLECTION SERVICES, INC.

SUM-100

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

CREDIT COLLECTION SERVICES, INC.

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

MILO ZUCCHI AND DARLISA ZUCCHI

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
FILED

2012 FEB -9 P 2:40

K. TORRE, CLERK OF THE SUPERIOR COURT
COUNTY OF CONTRA COSTA, CALIF.

By _____ Deputy Clerk

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): Superior Court of Contra Costa

725 Court Street
Martinez, CA 94553

CASE NUMBER:
(Número del Caso):

L12-01038

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Todd M. Friedman, 369 S. Doheny Dr., #415, Beverly Hills, CA 90211, 877-206-4741

DATE:
(Fecha) FEB - 9 2012

Clerk, by
(Secretario)

E. TECSON, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

1. ☒ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):

under: <input checked="" type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4. ☐ by personal delivery on (date):

Page 1 of 1

Todd M. Friedman (216752)
 Darin Shaw (251037)
 Law Offices of Todd M. Friedman, P.C.
 369 S. Doheny Dr. #415
 Beverly Hills, CA 90211
 Phone: 877-206-4741
 Fax: 866-633-0228
 tfriedman@attorneysforconsumers.com
 dshaw@attorneysforconsumers.com
 Attorneys for Plaintiffs

FILED

2012 FEB -9 P 2:40

K. TORRE, CLERK OF THE SUPERIOR COURT
 COUNTY OF CONTRA COSTA, CALIF.

SUMMONS ISSUED

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF CONTRA COSTA
 LIMITED JURISDICTION

<p>MILO ZUCCHI AND DARLISA ZUCCHI, Plaintiffs, vs. CREDIT COLLECTION SERVICES, INC., Defendant.</p>	<p>) Case No. L12-01038)) COMPLAINT FOR VIOLATION) OF ROSENTHAL FAIR DEBT) COLLECTION PRACTICES ACT AND) FEDERAL FAIR DEBT COLLECTION) PRACTICES ACT)) (Amount not to exceed \$10,000))) 1. Violation of Rosenthal Fair Debt) Collection Practices Act) 2. Violation of Fair Debt Collection) Practices Act</p>
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PER LOCAL RULE 5 THIS
 CASE IS ASSIGNED TO
 DEPT 31

I. INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Rosenthal Fair Debt Collection Practices Act, Cal Civ Code §1788, *et seq.* (hereinafter "RFDCPA") and the Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.* (hereinafter "FDCPA"), both of which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices.

II. PARTIES

2. Plaintiffs, Milo Zucchi and Darlisa Zucchi ("Plaintiffs"), are natural persons residing in Contra Costa county in the state of California, and are "consumers" as defined by the FDCPA, 15 U.S.C. §1692a(3) and is a "debtor" as defined by Cal Civ Code §1788.2(h).

3. At all relevant times herein, Defendant, Credit Collection Services, Inc. ("Defendant") was a company engaged, by use of the mails and telephone, in the business of collecting a debt from Plaintiffs which qualifies as a "debt," as defined by 15 U.S.C. §1692a(5), and a "consumer debt," as defined by Cal Civ Code §1788.2(f). Defendant regularly attempts to collect debts alleged to be due another, and therefore is a "debt collector" as defined by the FDCPA, 15 U.S.C. §1692a(6), and RFDCPA, Cal Civ Code §1788.2(c).

III. FACTUAL ALLEGATIONS

4. At various and multiple times prior to the filing of the instant complaint, including within the one year preceding the filing of this complaint, Defendant contacted Plaintiffs and Plaintiffs' friend in an attempt to collect an alleged outstanding debt.

5. Defendant contacted Plaintiff in connection with an attempt to collect an alleged debt.

6. Defendant contacted Plaintiff at (925) 349-9223, from telephone number (617) 581-1071, at times and places that were known to be inconvenient and with such a frequency as to constitute harassment under the circumstances.

7. On more than one occasion, including in October 2011, Plaintiff spoke to Defendant and requested that they cease and desist from contacting Plaintiff via telephone.

8. Despite being requested to cease and desist, Defendant continued to call Plaintiff, including but not limited to, calls made on 11/4/11 at 8:02am, 11/12/11 at 10:14am, 11/12/11 at 10:30am, 11/21/11 at 8:02am, 12/1/11 at 1029am, 12/1/11 at 1051am, 12/1/11 at 736pm, and 12/7/11 at 1124am.

1 9. Defendant engaged in conduct the natural consequence is to harass Plaintiff,
2 including but not limited to, using robotic telephone messages that fail to connect Plaintiff to an
3 actual representative, causing Plaintiff undue stress and harassment.

4 10. Defendant's conduct violated the FDCPA and the RFDCPA in multiple ways,
5 including but not limited to:

- 6 a) Causing a telephone to ring repeatedly or continuously to annoy
7 Plaintiff (Cal Civ Code §1788.11(d));
- 8 b) Communicating, by telephone or in person, with Plaintiff with
9 such frequency as to be unreasonable and to constitute an
10 harassment to Plaintiff under the circumstances (Cal Civ Code
11 §1788.11(e));
- 12 c) Failing to disclose Defendants true corporate or business name in
13 a telephone call to Plaintiff (§1692d(6));
- 14 d) Communicating with Plaintiff at times or places which were
15 known or should have been known to be inconvenient for
16 Plaintiff (§1692c(a)(1));
- 17 e) Causing Plaintiffs telephone to ring repeatedly or continuously
18 with intent to harass, annoy or abuse Plaintiff (§1692d(5));
- 19 f) Using unfair or unconscionable means against Plaintiff in
20 connection with an attempt to collect a debt (§1692f);
- 21 g) Collecting an amount from Plaintiff that is not expressly
22 authorized by the agreement creating the debt (§1692f(1));
- 23 h) Collecting an amount from Plaintiff that is not permitted by law
24 (§1692f(1));
- 25 i) Falsely representing the character, amount, or legal status of
26 Plaintiff's debt (§1692e(2)(A));
- 27
28

- 1 j) Using false representations and deceptive practices in connection
2 with collection of an alleged debt from Plaintiff (§1692e(10)).

3 11. As a result of the above violations of the FDCPA and RFDCPA, Plaintiffs
4 suffered and continue to suffer injury to Plaintiffs' feelings, personal humiliation,
5 embarrassment, mental anguish and emotional distress, and Defendant is liable to Plaintiffs for
6 Plaintiffs' actual damages, statutory damages, and costs and attorney's fees.

7
8 **COUNT I: VIOLATION OF ROSENTHAL**
9 **FAIR DEBT COLLECTION PRACTICES ACT**

10 12. Plaintiffs reincorporate by reference all of the preceding paragraphs.

11 13. To the extent that Defendant's actions, counted above, violated the RFDCPA,
12 those actions were done knowingly and willfully.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiffs respectfully pray that judgment be entered against Defendant
15 for the following:

- 16
17 A. Declaratory judgment that Defendant's conduct violated the RFDCPA;
18 B. Actual damages;
19 C. Statutory damages for willful and negligent violations;
20 D. Costs and reasonable attorney's fees; and
21 E. For such other and further relief as may be just and proper.

22 **COUNT II: VIOLATION OF FAIR DEBT**
23 **COLLECTION PRACTICES ACT**

24 14. Plaintiffs reincorporate by reference all of the preceding paragraphs.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiffs respectfully pray that judgment be entered against Defendant
27 for the following:

- 28 A. Declaratory judgment that Defendant's conduct violated the FDCPA;
B. Actual damages;
C. Statutory damages;

- 1 D. Costs and reasonable attorney's fees; and,
2 E. For such other and further relief as may be just and proper.

3 PLAINTIFFS HEREBY REQUEST A TRIAL BY JURY

4 Respectfully submitted this 4th day of February, 2012.

5
6 By:

7 Todd M. Friedman, Esq.
8 Law Offices of Todd M. Friedman, P.C.
9 Attorney for Plaintiff
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PROOF OF SERVICE

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

) ss.
)

I am employed in the County of Los Angeles, State of California.

I am over the age of 18 and not a party to the within action; my business address is 5959 W. Century Boulevard, Los Angeles, California 90045.

On **August 8, 2012**, I served the foregoing document described as: **NOTICE OF REMOVAL** on all interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

SEE ATTACHED SERVICE LIST**[X] (BY MAIL)**

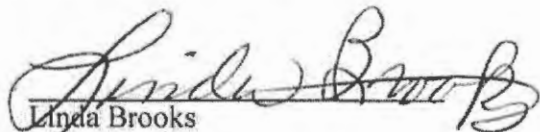
I sealed such envelope(s) and placed it (them) for collection and mailing on this dates following the ordinary business practices of Carlson & Messer LLP. I am "readily familiar" with the business practices of Carlson & Messer LLP for collection and processing of correspondence for mailing with the United States Postal Service. Such correspondence would be deposited with the United States Postal Service at Los Angeles, California this same day in the ordinary course of business with postage thereon fully prepaid.

[] VIA NEXT DAY FEDERAL EXPRESS

I delivered the above described documents in the above described envelopes to Federal Express for delivery via FedEx next business morning.

[] PERSONAL SERVICE BY HAND- I personally served document to address stated on POS Service List.**[] BY FACSIMILE-** I transmitted via telecopier machine such document to the offices of the addressees.**[X] (STATE) -** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed this **8th** day of **August, 2012** at Los Angeles, California.


Linda Brooks

SERVICE LIST

Milo Zucchi and Darlisa Zucchi v. Credit Collection Services, Inc.
07184.00

Todd M. Friedman, Esq.
Darin Shaw, Esq.
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